

**FILED**  
IN CLERK'S OFFICE  
U S DISTRICT COURT E D N Y

**REITER v. MAXI-AIDS, INC., CV 14-3712**

★ JUL 21 2016 ★

**LONG ISLAND OFFICE**

**VERDICT SHEET**

**PART I: Retaliation Claim under the Family Medical Leave Act (FMLA)**

1. Has Plaintiff proven by a preponderance of the evidence that he exercised or attempted to exercise rights protected under the FMLA?

YES \_\_\_\_\_

NO           X          

**If you answered "Yes" to Question 1, proceed to Question 2.**

**If you answered "No" to Question 1, proceed to Part II, Question 4.**

2. Has Plaintiff proven by a preponderance of the evidence that his exercise or attempt to exercise rights protected under the FMLA was a motivating factor in the defendant's decision to discharge him?

YES \_\_\_\_\_

NO \_\_\_\_\_

**If you answered "Yes" to Question 2, proceed to Question 3.**

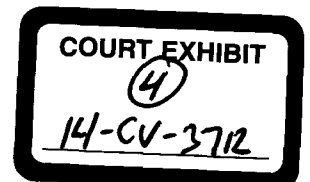
**If you answered "No" to Question 2, proceed to Part II, Question 4.**

3. Has Plaintiff proven by a preponderance of the evidence that Defendant's violation of the FMLA was willful?

YES \_\_\_\_\_

NO \_\_\_\_\_

**Proceed to Part II, Question 4.**



**PART II: Discrimination Claim under the Americans with Disabilities Act (ADA)**

4. Has Plaintiff proven by a preponderance of the evidence that, as defined by the ADA, he was disabled or perceived to be disabled, by his employer?

YES \_\_\_\_\_

NO           X          

**If you answered "Yes" to Question 4, proceed to Question 5.**

**If you answered "No" to Question 4, proceed to Part III, Question 9.**

5. Has Plaintiff proven by a preponderance of the evidence that he was otherwise qualified to perform the essential functions of the job with or without reasonable accommodation?

YES \_\_\_\_\_

NO \_\_\_\_\_

**If you answered "Yes" to Question 5, proceed to Question 6.**

**If you answered "No" to Question 5, proceed to Part III, Question 9.**

6. Has Plaintiff proven by a preponderance of the evidence that he was denied health care benefits?

YES \_\_\_\_\_

NO \_\_\_\_\_

**If you answered "Yes" to Question 6, proceed to Question 7.**

**If you answered "No" to Question 6, SKIP to Question 8.**

7. Has Plaintiff proven by a preponderance of the evidence that his disability or perceived disability was a motivating factor in the Defendant's decision to deny him health care benefits?

YES \_\_\_\_\_

NO \_\_\_\_\_

**Proceed to Question 8.**

8. Has Plaintiff proven by a preponderance of the evidence that his disability or perceived disability was a motivating factor in the Defendant's decision to discharge him from employment?

YES \_\_\_\_\_

NO \_\_\_\_\_

**Proceed to Part III, Question 9.**

**PART III: Discrimination Claim under the New York State Human Rights Law (NYSHRL)**

9. Has Plaintiff proven by a preponderance of the evidence that, as defined by the NYSHRL, he was disabled or perceived to be disabled by his employer?

YES           X           NO                                 

**If you answered "Yes" to Question 9, proceed to Question 10.**

**If you answered "No" to Question 9, proceed to Part IV, Question 14.**

10. Has Plaintiff proven by a preponderance of the evidence that he was otherwise qualified to perform the essential functions of the job with or without reasonable accommodation?

YES           X           NO                                 

**If you answered "Yes" to Question 10, proceed to Question 11.**

**If you answered "No" to Question 10, proceed to Part IV, Question 14.**

11. Has Plaintiff proven by a preponderance of the evidence that he was denied health care benefits?

YES                                  NO           X          

**If you answered "Yes" to Question 11, proceed to Question 12.**

**If you answered "No" to Question 11, SKIP to Question 13.**

12. Has Plaintiff proven by a preponderance of the evidence that his disability or perceived disability was a motivating factor in the decision by both or either Defendant to deny him health care benefits?

Defendant Maxi-Aids: YES                                  NO                                 

Defendant Zaretsky: YES                                  NO                                 

**Proceed to Question 13.**

13. Has Plaintiff proven by a preponderance of the evidence that his disability or perceived disability was a motivating factor in the decision by both or either Defendant to discharge him from employment?

Defendant Maxi-Aids: YES X NO                     

Defendant Zaretsky: YES X NO                     

**Proceed to Part IV, Question 14.**

## **PART IV: Associational Discrimination Claim under ADA**

14. Has Plaintiff proven by a preponderance of the evidence that he was qualified for the job at the time of his discharge from employment?

YES ~~X~~ NO           

**If you answered “Yes” to Question 14, proceed to Question 15.**

**If you answered “No” to Question 14, proceed to Part V, Question 18.**

15. Has Plaintiff proven by a preponderance of the evidence that Defendant Maxi-Aids, at the time of Plaintiff's discharge, knew that Plaintiff had a daughter with a disability?

YES     X     NO           

**If you answered “Yes” to Question 15, proceed to Question 16.**

**If you answered “No” to Question 15, proceed to Part V, Question 18.**

16. Has Plaintiff proven by a preponderance of the evidence that Maxi-Aids either (a) believed, rightly or wrongly, that covering plaintiff's daughter through its health insurance policy would be expensive, or (b) feared that plaintiff would be distracted or inattentive at work due to his daughter's disability?

YES       X       NO                     

**If you answered “Yes” to Question 16, proceed to Question 17.**

**If you answered “No” to Question 16, proceed to Part V, Question 18.**

17. Has Plaintiff proven by a preponderance of the evidence that his association with his daughter was a determining factor in the Defendant's decision to discharge him from employment?

YES           X           NO                                 

**Proceed to Part V, Question 18.**

**PART V: Retaliation Claims under the ADA and NYSRHL**

18. Has Plaintiff proven by a preponderance of the evidence that he engaged in protected activity?

YES           X           NO                                 

**If you answered "Yes" to Question 18, proceed to Question 19  
If you answered "No" to Question 18, to Part VI.**

19. Has Plaintiff proven by a preponderance of the evidence that his employer was aware of this protected activity?

YES           X           NO                                 

**If you answered "Yes" to Question 19, proceed to Question 20  
If you answered "No" to Question 19, proceed to Part VI.**

20. Has Plaintiff proven by a preponderance of the evidence that his protected activity was the critical factor in the decision by both or either Defendant to discharge Plaintiff?

Defendant Maxi-Aids: YES                                  NO           X            
Defendant Zaretsky: YES                                  NO           X          

**Proceed to Part VI.**

**PART VI: DAMAGES**

You are to consider Plaintiff's request for damages ONLY if you answered "Yes" to any part of Questions 7, 8, 12, 13, 17 or 20.

If you answered "No" to ALL of Questions 7, 8, 12, 13, 17 and 20, you are finished.

21. Answer (a), OR (a) AND (c), OR (b).

Do not answer (b) if you answered a dollar amount in response to (a) or (c)

- (a) Compensatory Damages: \$ 0.00
- (b) Nominal Damages: \$
- (c) Punitive Damages:

If you answered "Yes" to Question 7, 8, 17, and/or 20, has Plaintiff proven that Defendant Maxi-Aids' conduct was malicious or in reckless disregard of Plaintiff's rights?


YES X NO                     

If YES, proceed to determine an amount.

If NO, you are finished.

\$ 400,000.00

YOU ARE FINISHED. RETURN TO THE COURTROOM.

  
Tiffany Sorensen  
Foreperson